Intergovernmental relations, Manpower training programs, Nuclear energy, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Nuclear Waste Policy Act of 1982, as amended; and 5 U.S.C. 552 and 553; the NRC is proposing to adopt the following amendments to 10 CFR part 72:

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE, AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2210e, 2232, 2233, 2234, 2236, 2237, 2238, 2273, 2282, 2021); Energy Reorganization Act of 1974, secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Nuclear Waste Policy Act of 1982, secs. 117(a), 132, 133, 134, 135, 137, 141, 145(g), 148, 218(a) (42 U.S.C. 10137(a), 10152, 10153, 10154, 10155, 10157, 10161, 10165(g), 10168, 10198(a)); 44 U.S.C. 3504 note.

■ 2. In § 72.214, Certificate of Compliance No. 1032 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009, superseded by Initial Certificate, Revision 1, on February 1, 2016.

Initial Certificate, Revision 1, Effective Date: February 1, 2016.

Amendment Number 1 Effective Date: August 30, 2010, superseded by Amendment Number 1, Revision 1, on February 1, 2016.

Amendment Number 1, Revision 1, Effective Date: February 1, 2016.

Amendment Number 2 Effective Date: January 30, 2012, superseded by Amendment Number 2, Revision 1, on February 1, 2016.

Amendment Number 2, Revision 1, Effective Date: February 1, 2016.

Amendment Number 3 Effective Date: July 25, 2013, superseded by Amendment Number 3, Revision 1, on February 1, 2016.

Amendment Number 3, Revision 1, Effective Date: February 1, 2016.

Amendment Number 4 Effective Date: April 14, 2015.

Amendment Number 5 Effective Date: June 29, 2015.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR®.

* * * * *

Dated at Rockville, Maryland, this 5th day of November, 2015.

For the Nuclear Regulatory Commission.

Glenn M. Tracy,

Acting Executive Director for Operations.

[FR Doc. 2015–29423 Filed 11–17–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2015–BT–CRT–0013]

RIN 1904–AD53

Energy Conservation Program: Exempt External Power Supplies Under the EPS Service Parts Act of 2014

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to codify provisions of the EPS Service Parts Act of 2014 that exempt from energy conservation standards certain external power supplies (EPSs) made available by a manufacturer as a service or spare part. Consistent with that Act, DOE is proposing to require annual reports of the total number of exempt EPS units sold as service and spare parts that do not meet the relevant energy conservation standards.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking no later than December 18, 2015. See section V, ''Public Participation,'' for details.

ADDRESSES: Any comments submitted must identify the NOPR for Exempt External Power Supplies Under the EPS Service Parts Act of 2014, and provide docket number EERE–2015–BT–CRT–0013 and/or regulatory information number (RIN) number 1904–AD53. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: EPSServiceParts2015CRT0013@ee.doe.gov*. Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC, 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx?productid=23*. This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through regulations.gov.

For further information on how to submit a comment, review other public comments and the docket, or to request a public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information may be sent to Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121.

Telephone: (202) 586–9870. Email: *battery_chargers_and_external_power_supplies@EE.Doe.Gov*

For legal issues, please contact Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

Table of Contents

I. Authority and Background

Authority

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* ''EPCA'' or, in context, ''the Act'') sets forth a variety of provisions designed to improve energy efficiency. (All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Pub. L. 114–11 (April 30, 2015).) Part B of title III, which for editorial reasons was re-designated as Part A upon incorporation into the U.S. Code (42 U.S.C. 6291–6309, as codified), establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' External power supplies are among the products affected by these provisions.

Background

Section 301 of EISA 2007 established minimum energy conservation standards for Class A external power supplies (EPSs) manufactured on or after July 1, 2008. (42 U.S.C. 6295(u)(3)(A)). See 42 U.S.C. 6291(36)(C)(i)–(ii). EISA 2007 exempts Class A EPSs from meeting these statutorily-prescribed standards if the devices are manufactured before July 1, 2015, and made available by the manufacturer as service parts or spare parts for end-use consumer products that were manufactured prior to July 1, 2008. (42 U.S.C. 6295(u)(3)(B)) Congress created this limited (and temporary) exemption as part of a broad range of amendments to EPCA under EISA 2007. The provision did not grant DOE with the authority to expand or extend the length of this exemption and Congress did not grant DOE with the general authority to exempt any already covered product from the requirements set by Congress.

After releasing a preliminary analysis and issuing a proposed set of energy conservation standards, DOE published a final rule prescribing new standards for non-Class A EPSs and amended standards for some Class A EPSs—namely, those EPSs that met what DOE has termed as ''direct operation'' EPSs. See 79 FR 7846 (Feb. 10, 2014). (A direct operation EPS is an external power supply that can operate a consumer product that is not a battery charger without the assistance of a battery. See 10 CFR 430.2.) These new standards apply to products manufactured on or after February 10, 2016. At that time, DOE did not have the authority to provide manufacturers with an exemption for EPSs that were made available as service or spare parts to end-use consumer products that were manufactured prior to the compliance date of these new standards. Accordingly, despite requests from some commenters who responded to DOE's proposed standards by asking for such an exemption, no such relief was provided as part of the final rule.

On December 18, 2014, the EPS Service Parts Act of 2014, Public Law 113–263 (Dec. 18, 2014) (''Service Parts Act'') was enacted. That law provided manufacturers with an exemption for EPSs that are made available as service and spare parts for end-use products manufactured before February 10, 2016. To be exempt from the new standards under the Service Parts Act, an EPS must meet four separate criteria. Specifically, the EPS must be: (i) Manufactured during the period beginning on February 10, 2016, and ending on February 10, 2020; (ii) marked in accordance with the External Power Supply International Efficiency Marking Protocol; (iii) compliant, where applicable, with the standards for Class A EPSs and certified to DOE as meeting at least International Efficiency Level IV; and (iv) made available by the manufacturer as a service part or spare part for an end-use product manufactured before February 10, 2016.

Additionally, the Service Parts Act permits DOE to require manufacturers of an EPS that is exempt from the 2016 standards to report to DOE the total number of EPS units shipped annually that are made available as service and spare parts and do not meet those standards. See 42 U.S.C. 6295(u)(5)(A)(ii). DOE may also limit the applicability of the exemption if the Secretary determines that the exemption is resulting in a significant reduction of the energy savings that would result were there no exemption to the new standards. See 42 U.S.C. 6295(u)(5)(A)(iii). Finally, the statute authorizes DOE to provide a similar exemption from future EPS conservation standards.

II. Summary of the Notice of Proposed Rulemaking

DOE is proposing to incorporate the statutory provisions described above into its regulations. DOE is also providing some clarification on the circumstances under which EPSs would be considered spare or service parts. DOE also proposes to require that importers and domestic manufacturers annually report to DOE the total units of exempt EPSs sold as service and spare parts that do not meet the 2016 standards.

III. Discussion

A. Codifying the Exemption in the CFR

DOE is proposing to incorporate the provisions of the Service Parts Act into 10 CFR 430.32. This would help ensure that the regulations reflect the statutory exemption and that interested parties are able to readily access the content of this new statutory provision. It also ensures consistency with the similar exemption to the Class A EPS standards provided by Congress within EISA 2007, which was codified in the CFR.

B. Service or Spare Part EPSs

The Service Parts Act provides an exemption for certain EPSs that are made available by manufacturers as service or spare parts. Most end-use products that use EPSs are sold with the EPS that is necessary to operate that product. In such a case, the EPS that is sold with the end-use product would not be considered to be an EPS made available as a spare or service part. However, any EPS that is sold separately from an end-use product, including an EPS made available as a replacement for, or in addition to, the EPS originally sold with an end-use product would be considered an EPS

made available as a service or spare part.

Further, to clarify the application of this statutory exemption, only those EPSs that are made available as service or spare parts for end-use products that were manufactured before February 10, 2016 (the date that manufacturers must comply with the new and amended standards for direct operation EPSs) qualify for the Service Parts Act's exemption. If an EPS is made available as a service part or spare part for any end-use product that continues to be manufactured after February 10, 2016, or is sold with any end-use product manufactured after that date, that EPS would not be eligible for this exemption. Congress specifically limited the application of the exemption to those EPSs that the manufacturer makes available for an end-use product that constitutes the primary load of that end-use product so long as it was manufactured prior to February 10, 2016. See 42 U.S.C. 6295(u)(5)(A).

Furthermore, DOE recognizes that many EPSs, like those that use an industry standard communication protocol such as the universal serial bus (USB), may be capable of operating many different end-use products. If the EPS is capable of operating multiple end-use products, some of which were manufactured before February 10, 2016, and some of which were manufactured after February 10, 2016, then that EPS would also not be eligible for the service and spare part exemption since the EPS can operate an end-use product manufactured after February 10, 2016. In order to clarify which EPSs are eligible for the exemption, DOE is proposing to clarify that this exemption would apply to an EPS basic model that a manufacturer makes available only as a service part or a spare part for an end-use product that was manufactured before February 10, 2016, and would not apply to an EPS basic model that a manufacturer makes available as a service part or spare part for end-use products that continue to be manufactured after February 10, 2016. Specifically, an EPS would be exempt from the 2016 Level VI standard if, among other criteria, it is made available by the manufacturer only as a service part or a spare part for an end-use product, and only if the end-use product was manufactured before February 10, 2016.

DOE seeks comment regarding how manufacturers produce spare or service parts as compared to how manufacturers produce EPS units provided with a new product. For example, do manufacturers typically produce a single EPS basic model that is both sold independently as a service/spare part for a given end-use product and packaged with a new end-use product? If a manufacturer typically produces a single EPS basic model, are those EPSs produced as a spare or service part labelled differently from those packaged with a new product?

C. Sales Reporting Requirements

Additionally, the Service Parts Act permits DOE to require manufacturers of an EPS that is exempt from the 2016 standards to report to DOE the total number of EPS units shipped annually that are made available as service and spare parts and do not meet those standards. See 42 U.S.C. 6295(u)(5)(A)(ii). Consistent with that authority, DOE is proposing that importers and domestic manufacturers of EPSs that are exempt under the Service Parts Act report to DOE annually the total number of exempt EPS units sold that do not meet the amended standard. DOE considers the ''shipments'' referred to in the statute to be the units sold by either the importer or the domestic manufacturer. Because importers would have both incoming and outgoing shipments, DOE considers the ''units sold'' to be clearer than ''units shipped.'' DOE requests comment on this phrasing.

Many of the EPSs involved are Class A EPSs and continue to be subject to the current Class A EPS standards (*i.e.* Level IV) set forth in 10 CFR 430.32(w)(1)(i) and associated certification requirements. Manufacturers of any basic model of such a Class A EPS must, therefore, submit an annual certification report to DOE as required under 10 CFR part 429. For these EPSs, submission of an annual certification report to DOE is required to qualify for the exemption. In addition to the annual certification report requirement for these EPSs, DOE is proposing to require each importer or domestic manufacturer to include in its annual certification report information the number of units of each individual model of exempt EPS it sold in the preceding year that do not meet the 2016 standards. The Service Parts Act authorizes DOE to limit the applicability of the service and spare part exemption if DOE determines that the exemption is resulting in a significant reduction of the energy savings that would otherwise result from the final rule. In assessing whether such a change would be needed, DOE plans to use the reported information to evaluate the exemption's impacts on energy savings.

Similarly, DOE is proposing to require each importer or domestic manufacturer of non-Class A EPSs that are exempted by the Service Parts Act and do not meet the 2016 standards to submit an annual report of the corresponding number of units of each individual model of such EPS that the importer or domestic manufacturer sold in the prior year. Examples of these kinds of non-Class A EPSs include multiple-voltage EPSs, high-power EPSs, and some EPSs used to operate end-use products that are motor-driven. Under DOE's February 2014 final rule, these EPSs, unless exempt, are required to meet the Level VI standards starting in 2016. These non-class A EPSs would not be certified under the provisions of 10 CFR 429.12 (General requirements applicable to certification reports), if they are exempt. Therefore, consistent with the Service Parts Act, DOE is proposing to require that importers and domestic manufacturers report the total number of units sold in the year preceding the report. Specifically, DOE is proposing to add this reporting requirement to 10 CFR 429.37, with the product-specific certification requirements.

DOE proposes that the reporting period for the sales information be from August 1 through July 31 of each year. This would allow importers and domestic manufacturers time to compile sales information and report the number of units sold and to align the submittal date with the annual certification report deadline of September 1 for Class-A EPSs. DOE seeks comment on this proposed reporting requirement.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

This rulemaking is not significant for purposes of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential

impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

For manufacturers of EPSs, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/content/summary-size-standards-industry.* EPS manufacturing is classified under NAICS 335999, ''All Other Miscellaneous Electrical Equipment and Component Manufacturing.'' The SBA sets a threshold of 500 employees or less for an entity to be considered as a small business for this category.

As a preliminary matter, DOE notes that there are no domestic manufacturers of EPSs. Consequently, there are no small business impacts to evaluate for purposes of the Regulatory Flexibility Act.

Notwithstanding the absence of domestic EPS manufacturers, DOE reviewed this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This proposed rule would incorporate into DOE's regulations a statutorily-prescribed exemption affecting EPSs that manufacturers make available as service or spare parts. The exemption allows manufacturers to maintain and distribute supplies of replacement parts for older equipment without needing to meet the EPS energy conservation standards that will apply starting in 2016. This exemption provides manufacturers flexibility in meeting their warranty and contract obligations in cases where service or spare parts require an EPS. It also relieves manufacturers of the burdens of redesigning and certifying EPSs used for end-use products that are no longer manufactured starting in 2016, which DOE anticipates will save these manufacturers from any significant expenses that would otherwise be used to solely support products that are no longer in production.

Consistent with its prior incorporation of the previous statutory exemption added by Congress for Class A EPSs made available as service and spare parts, see 10 CFR 430.32(w)(2) (2015), DOE expects any potential impact from its proposal to be minimal.

For these reasons, DOE certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This rule proposes to revise an existing information collection. This information collection request contains:

(1) OMB Control Number: 1910–1400.

(2) Information Collection Request Title: Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recordkeeping for Consumer Products and Commercial/Industrial Equipment Subject to Energy or Water Conservation Standards.

(3) Type of Request: Revision of a Currently Approved Collection.

(4) Purpose: Today's notice would require external power supply manufacturers to report the number of exempt EPS units sold as part of the annual certification report, which is already required. The annual certification report must be submitted via CCMS, an electronic system for recording and processing certification submissions.

Manufacturers of EPSs must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for EPSs including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including external power supplies. See 10 CFR part 429, subpart B. The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the proposed certification requirement is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In today's notice, DOE is proposing to require external power supply manufacturers to provide the total number of exempt EPS units sold as service and spare parts for each basic model for which the manufacturer is claiming exemption from the current standards. The following are DOE estimates of the increased time (over the existing approved information collection) for manufacturers to collect, organize and store the data required by today's notice of proposed rulemaking.

Affected Public: Manufacturers of external power supplies that are claiming the spare parts exemption.

Estimated Number of Impacted Manufacturers: 1028.

Estimated Time per Record: 4 minutes.

Estimated Total Annual Burden Hours: 69 hours.

Estimated Total Annual Cost to the Manufacturers: $500.

This revision would yield the following totals for the information collection:

(5) Annual Estimated Number of Respondents: 3028

(6) Annual Estimated Number of Total Responses: 20,000

(7) Annual Estimated Number of Burden Hours: 68,069 hours

(8) Annual Estimated Reporting and Recordkeeping Cost Burden: $6,800,500

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE has determined that this proposal, which would incorporate a recently-enacted exemption into the CFR for EPSs sold as spare or service parts, falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would adopt changes to the manner in which certain covered equipment would be certified and/or reported, which would not affect the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this

rulemaking is covered by Categorical Exclusion A6 (Procedural Rulemaking) under 10 CFR part 1021, subpart D. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a)–(b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel*. DOE examined this proposed rule according to UMRA and its statement of policy and determined that the proposed rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on

energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This proposed regulatory action to amend the existing certification requirements for EPSs sold as spare parts is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. This proposal to amend the certification requirements for all covered consumer products does not propose the use of any commercial standards.

V. Public Participation

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this proposed rule.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on November 10, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.37 is amended by adding paragraphs (b)(3) and (c) to read as follows:

§ 429.37 External power supplies.

* * * * *

(b) * * *

(3) Pursuant to § 429.12(b)(13), a certification report for external power supplies that are exempt from the energy conservation standards at § 430.32(w)(1)(ii) pursuant to § 430.32(w)(2) must include the following additional product-specific information: The number of units of each individual model of exempt external power supplies sold during the most recent 12-calendar-month period ending on July 31.

(c) *Exempt External Power Supplies.* For each individual model of external power supply that is exempt from energy conservation standards pursuant to § 430.32(w)(2) and has not been certified pursuant to § 429.12(a) as compliant with an applicable standard, the importer or domestic manufacturer must, no later than September 1, 2017, and annually thereafter, submit a report providing the following information:

(1) The importer or domestic manufacturer's name and address;

(2) The brand name;

(3) The model number;

(4) The average active mode efficiency as a percentage (%);

(5) No-load mode power consumption in watts (W);

(6) The nameplate output power in watts (W);

(7) The nameplate output current in aperes (A); and

(8) The number of units sold during the most recent 12-calendar-month period ending on July 31. The report must be submitted to DOE in accordance with the submission procedures set forth in § 429.12(h).

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.32 is amended by revising paragraph (w)(2) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(w) * * *

(2) A basic model of external power supply is not subject to the energy conservation standards of paragraph (w)(1)(ii) of this section if the external power supply—

(i) Is manufactured during the period beginning on February 10, 2016, and ending on February 10, 2020;

(ii) Is marked in accordance with the External Power Supply International Efficiency Marking Protocol, as in effect on February 10, 2016;

(iii) Meets, where applicable, the standards under paragraph (w)(1)(i) of this section, and has been certified to the Secretary as meeting those standards; and

(iv) Is made available by the manufacturer only as a service part or a spare part for an end-use product that—

(A) Constitutes the primary load; and

(B) Was manufactured before February 10, 2016.

* * * * *

[FR Doc. 2015–29303 Filed 11–17–15; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2014–N–1021]

RIN 0910–AH00

Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or we) is proposing to establish requirements concerning ''gluten-free'' labeling for foods that are fermented or hydrolyzed or that contain fermented or hydrolyzed ingredients. These additional requirements for the ''gluten-free'' labeling rule are needed to help ensure that individuals with celiac disease are not misled and receive truthful and accurate information with respect to fermented or hydrolyzed foods labeled as ''gluten-free.'' There is uncertainty in interpreting the results of current gluten test methods for fermented and hydrolyzed foods on a quantitative basis that equates the test results in terms of intact gluten. Thus, we propose to evaluate compliance of such fermented and hydrolyzed foods that bear a ''gluten-free'' claim with the gluten-free labeling rule based on records that are made and kept by the manufacturer of the food bearing the ''gluten-free'' claim and made available to us for inspection and copying. The records would need to provide adequate assurance that the food is ''gluten-free'' in compliance with the gluten-free food labeling final rule before fermentation or hydrolysis. In addition, the proposed rule would require the manufacturer of fermented or hydrolyzed foods bearing the ''gluten-free'' claim to document that it has adequately evaluated the potential for gluten cross-contact and, if identified, that the manufacturer has implemented measures to prevent the introduction of gluten into the food during the manufacturing process. Likewise, manufacturers of foods that contain fermented or hydrolyzed ingredients and bear the ''gluten-free'' claim would be required to make and keep records that demonstrate with adequate assurance that the fermented or hydrolyzed ingredients are ''gluten-free'' in compliance with the gluten-free food labeling final rule. Finally, the proposed rule would state that we would evaluate compliance of distilled foods by